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April 12, 2017

**By ECF**

The Honorable Paul G. Gardephe  
United States District Judge  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street  
New York, New York 10007

Re: *Bolivar v. FIT International Group Corp. et al.*  
No. 09-CV-118

Dear Judge Gardephe:

I write on behalf of Plaintiffs Bolivar, Rubio, and Quintero and the Class of FIT investors certified by this court (“Plaintiff Class”) in Bolivar, Rubio, Quintero and All Those Persons Similarly Situated v. FIT International Group Corp. et al., No. 12-CV-781, a class action in which both class certification and default judgment orders from this court have previously been granted, based on written pleadings and a hearing in the matter.

Class counsel has represented the Plaintiff Class for almost eight (8) years, and has taken action on behalf of the Plaintiff Class during this time in New York and in Florida, and through co-counsel in Colombia, also. On October 9, 2015 this Court issued an Order referring the case to Magistrate Judge Debra Freeman. On October 21, 2015 Magistrate Judge Freeman issued a Scheduling Order for a Damages Inquest including the Plaintiffs’ Findings of Fact and Conclusions of Law by Nov. 20, 2015. Plaintiffs accordingly filed Proposed Findings of Fact and Conclusions of Law by Nov. 20, 2015. On September 13, 2016, Magistrate Judge Freeman issued an Order directing Plaintiffs to supplement their inquest submissions to address the deficiencies and/or to clarify by October 13, 2016. On October 12, 2016, Plaintiffs filed a Supplement to Plaintiffs Proposed Findings of Fact and Conclusions of Law and provided copies of all bank statements to the Court and Chambers for verification as well as affidavits from the Banks. On December 6, 2016 Magistrate Judge Freeman found that indeed Plaintiffs had provided the requested supplementary documents and scheduled an order for a hearing on January 11, 2017. Plaintiffs’ Counsel and expert witness appeared at that hearing with supplementary documents and agreed to provide further documents and appropriate accounting methodology including investor lists and transparent calculation of the damages for Plaintiff Class. As ordered Plaintiffs filed supplemental documents, including methodology, investor lists

and process for calculation and quantification of Class damages with service upon Defendants on February 16, 2017, who were then provided until March 2, 2017 to respond.

Upon a regular review of the docket, it has come to our attention that Magistrate Judge Freeman has dispatched a Report and Recommendation to the Court in this matter relating to the damages inquest that was supposed to be served upon Plaintiffs via ECF on March 16, 2017. However, due to an error in the ECF system, Plaintiffs did not receive such ECF notice of the Report and Recommendation till today. After calling the ECF help desk for the SDNY, I was informed there was a 'glitch' in the system. Attached is the notice I received today, April 12, 2017, for the first time. Plaintiffs' counsel has received all other ECF notices and was diligent in reviewing email for such ECF correspondence in this case. Please see my Declaration attached herewith along with the ECF Notice received today (Exhibit 1).

Pursuant to the Report and Recommendation, all requests for extension of time to file an objection are to be directed to the Court. So as not to prejudice the Class unduly, Plaintiffs respectfully request Thirty (30) days from the date of the ECF notice, April 12, 2017, to file a written objection to the extensive Report and Recommendation, and explain in detail the elements of the submission demonstrating with reasonable certainty the damages sustained by members of the Class of Plaintiffs so that a fair and final judgment can be made by the Court in this case.

Thank you.

Respectfully submitted,

Gaytri Kachroo